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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,962	02/23/2004	Peter Szego	027841.0101-US01	7568
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COVINGTON & BURLING
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1201 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004-2401

EXAMINER

RUSSEL, JEFFREY E

ART UNIT

PAPER NUMBER

1654

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/782,962	Applicant(s) SZEGO, PETER	
	Examiner Jeffrey E. Russel	Art Unit 1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-18 is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 6 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/018,806.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The terminal disclaimer filed November 30, 2005 has been approved.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 2, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lobberding et al (U.S. Patent No. 5,849,893). Lobberding et al teach peptide nucleic acids having ϵ -polylysine, δ -polyornithine, or poly-2,4-diaminobutyric acid backbones with nucleic bases attached to the alpha amino groups through $\text{CH}_2\text{-C(O)}$ spacers. The degree of polymerization ranges from 1 to 30. The peptide nucleic acids are used as medicaments as antisense inhibitors, e.g., in the treatment of cancer. See, e.g., the Abstract; column 1, lines 7-11; column 2, formula (I) and line 64; column 10, lines 22-63; column 11, lines 64-67; and claim 1. The B groups in the formula at column 10, lines 22-30, of Lobberding et al correspond to Applicant's antiproliferative compounds and antiviral compounds. The B groups have both a direct and an indirect antiproliferative effect, i.e. they bind to DNA which is present in cancerous cells and they prevent replication of the DNA. The B groups will inherently bind to a surface of the DNA, which corresponds to Applicant's claimed target site. [Note that the DNA to which the peptide nucleic acids of Lobberding et al would bind would not be present on the surface of the target cell or tumor cell, and therefore the reference is not applied against, e.g., instant claims 4, 8, and 12. Note also that the B groups are not nucleic acids or oligonucleotides, and therefore Lobberding et al is not applied against, e.g., instant claim 7.]
4. Applicant's arguments filed November 30, 2005 have been fully considered but they are not persuasive.

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The anticipation rejection over Lobberding et al (U.S. Patent No. 5,849,893) is maintained. Note that the new limitation inserted into claim 1 is broader than the subject matter previously indicated novel and unobvious over Lobberding et al. The new limitation merely requires the enhancer molecule to bind to a surface of a target site, where the target site is not specified. The examiner previously indicated that Lobberding et al does not teach or suggest an enhancer molecule which binds to a target site which is the surface of a tumor cell.

6. Claims 8-18 are allowed. Claims 3, 4, 6, and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

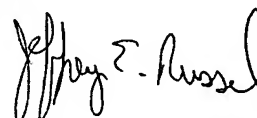
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (571) 272-0969. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Bruce Campell can be reached at (571) 272-0974. The fax number for formal communications to be entered into the record is (571) 273-8300; for informal communications such as proposed amendments, the fax number (571) 273-0969 can be used. The telephone number for the Technology Center 1600 receptionist is (571) 272-1600.

A handwritten signature in black ink, appearing to read "Jeffrey E. Russel". The signature is fluid and cursive, with the first name "Jeffrey" and last name "Russel" clearly distinguishable.

Jeffrey E. Russel

Primary Patent Examiner

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JRussel

December 8, 2005